

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DONNA CLARKE,

Plaintiff,

- against -

THROGS NECK NURSING HOME,

Defendant.

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/16/05**

04 Civ. 9768 (RCC)

**MEMORANDUM
& ORDER**

RICHARD CONWAY CASEY, United States District Judge:

Donna Clarke ("Plaintiff") brought this action pro se under Title VII of the Civil Rights Act, but failed to serve the defendants with the summons and complaint. By Report and Recommendation dated November 22, 2005 ("Report"), Magistrate Judge Ronald L. Ellis recommended that Plaintiff's action be dismissed without prejudice for failure to comply with Rule 4(m) of the Federal Rules of Civil Procedure. In conformity with United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997), Rule 72(b) of the Federal Rules of Civil Procedure, and the Federal Magistrates Act, 28 U.S.C. § 636(b)(1), Judge Ellis explicitly cautioned that any objections to the Report were to be received within 10 days of service of the Report, and that failure to file timely objections to the Report would constitute a waiver of any objections.

As of the date of this Order, the Court has not received any objections to the Report. A court may adopt those portions of a magistrate judge's report and recommendation that are not the product of clear error and to which the parties do not object. Pizzaro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991); see also 28 U.S.C. § 636(b)(1). Having carefully reviewed the file in this matter, the Court is satisfied that there is no clear error on the face of the Report. Accordingly, the Court accepts and adopts the Report in its entirety. The Clerk of the Court is directed to close the case and to remove it from the Court's active docket.

So Ordered: New York, New York
December 16, 2005



Richard Conway Casey, U.S.D.J.